

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**VAN WERT COUNTY HOSPITAL**

**Employer**

**and**

**Case No. 8-RC-16475**

**OHIO NURSES ASSOCIATION/AMERICAN  
NURSES ASSOCIATION/UNITED AMERICAN  
NURSE**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board (the Board).

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.<sup>1</sup>

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

*All regular full-time, part-time, PRN, and per diem registered nurses who meet the National Labor Relations Board's voting eligibility standards and criteria as set forth in **Davison-Paxon**, 185 NLRB 21 (1970), or as set forth in **Marquette General Hospital**, 218 NLRB 713 (1975), including all registered nurses who are designated on the Employer's payroll as Charge Nurses and all registered nurses who regularly, or from*

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<sup>1</sup> Upon the entire record in this case, the undersigned finds: The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The Ohio Nurses Association/American Nurses Association/United American Nurse, herein referred to as Petitioner, is a labor organization which claims to represent certain employees of the Employer.

*time-to-time, perform “change nurse” duties or functions; the Nurse Case Management Coordinators; Relief or Fill-In House Supervisors; the Applications Coordinator, the Coordinator of Occupational/Employee Health/Infection Control; and the Professional Practice Coordinator, but excluding all office clerical employees, confidential employees, and management employees; House Supervisors; the Director of Surgical Services; the Director of Maternal Child Health Services/PEDS/OB/Prenatal Clinic; the Coordinator of Medical/Surgical Services/Nursing Education; the Director of Critical Care Services ER/ICU/Specialty Clinic; the Vice President of Nursing Services, guards and supervisors as defined in the Act, and all other employees.*

The Employer operates an acute care hospital in Van Wert, Ohio. There are approximately 80 employees in the unit found appropriate herein. The Unit description is in accord with a stipulation by the parties.

While the parties reached a stipulation on the unit, they were unable to agree on the terms of a stipulated election agreement because of a dispute over the time and place of the election. Most of the Employer’s nurses work on three shifts: 7:00 a.m. to 3:00 p.m.; 3:00 p.m. to 11:00 p.m. and 11:00 p.m. to 7:00 a.m. Some nurses work a twelve hour shift from 7:00 p.m. to 7:00 a.m. At the hearing the parties stipulated to two election polling periods: one between 2:30 p.m. and 4:00 p.m. and another between 6:30 p.m. and 8:00 p.m.

The Petitioner proposed another election polling time period from 6:00 a.m. to 9:00 a.m., while the Employer proposed the periods of 10:30 a.m. to 12:00 p.m. and 10:30 p.m. to 12:00 a.m. The NLRB’s Case Handling Manual, Representation Proceedings, Section §11302.3 states polling periods should center around the shift change for a multishift facility with additional time extending into the working hours.

A majority of the unit employees are starting or ending their shift at 7:00 a.m. Therefore, I find it is appropriate to conduct the election from 6:00 a.m. to 9:00 a.m. as the third period for polling. This time period allows both day shift and night shift

employees an adequate opportunity to vote. The parties agreed upon times set forth above ensure an adequate opportunity to vote for employees who work the second shift and those who work the twelve hour shift. Accordingly, I find no need to establish a polling period from 10:30 p.m. to midnight.

The parties are also in dispute regarding the situs of the polling area. The Petitioner proposes conference rooms B, C, and D at the hospital, while the Employer proposes the Medical Library. The Petitioner objects to the Medical Library because of the presence of supervisors' offices in the area. The Employer contends the conference rooms are too near the cafeteria to be an appropriate polling area. The Employer's concern is that supervisors and members of the public frequent the cafeteria and that the atmosphere would not be appropriate for conducting an election.

The NLRB's Case Handling Manual, Representation Proceedings, Section §11302.2 states the actual polling place, if feasible, should be spatially and visually separated from the scene of any other activity during the voting period. Accordingly, I find the Medical Library to be the more appropriate area in which to conduct the election. The conference rooms suggested by the Petitioner are not visually separated enough from public areas, including the cafeteria, to establish the conditions necessary to conduct the election. Further, the amount of time allotted for voting in this election will allow employees to vote comfortably in the Medical Library even though overall there may be a larger area available in the conference rooms.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations.

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than twelve months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Ohio Nurses Association/American Nurses Association/United American Nurse.**

### **LIST OF VOTERS**

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. **Excelsior Underwear Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759 (1969).** Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. **North Macon Health Care Facility, 315 NLRB 359 (1994).** The Regional Director shall make the list available to all parties to the election. No extension of time shall be granted by

the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

**RIGHT TO REQUEST REVIEW**

Under the provisions of section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C., 20570-0001. This request must be received by the Board in Washington by December 18, 2002.

Dated at Cleveland, Ohio this 4<sup>th</sup> day of December 2002.

/s/ Frederick J. Calatrello  
Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8

393-6081-2000